

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF PUERTO RICO

HÉCTOR SANTIAGO-MELÉNDEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 09-1627 (ADC)

ORDER

Petitioner, Héctor Santiago-Meléndez (“petitioner”), filed a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (“2255 motion”) on July 7, 2009. **ECF No. 1.** Petitioner seeks post-conviction relief on the basis that he received ineffective assistance of counsel. Respondent, the United States of America (“respondent”), opposed said motion and sought to have the petition dismissed (**ECF No. 7**) to which petitioner replied (**ECF No. 8**). On March 17, 2010, the court referred the 2255 motion to Magistrate-Judge Marcos López (“Magistrate-Judge”). **ECF No. 10.** On October 27, 2011, the Magistrate-Judge issued a Report and Recommendation (“R & R”) which recommended the dismissal of petitioner’s 2255 motion. **ECF No. 12.** Petitioner did not object or otherwise oppose the R & R and the time to do so has expired.

I. Standard of Review for an Unopposed Report and Recommendation

A district court may refer pending motions to a magistrate-judge for a report and recommendation. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); Loc. Cv. R. 72(a). Any party adversely affected by the recommendation issued may file written objections within ten (10) days of being served with the report and recommendation. *See* 28 U.S.C. § 636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of “those portions of the report or specified proposed findings or recommendations to which specific objection is made.” *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667, 673 (1980)).

“Absent objection, ... [a] district court ha[s] a right to assume that [the affected party] agree[s] to the magistrate’s recommendation.” *López- Mulero v. Valez-Colón*, 490 F. Supp. 2d 214, 217 -218 (D.P.R. 2order007) (citing *Templeman v. Chris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985), *cert. denied*, 474 U.S. 1021 (1985)). Moreover, in conducting its review of an unopposed R & R, the court “needs only [to] satisfy itself by ascertaining that there is no ‘ plain error’ on the face of the record.” *López-Mulero*, 490 F. Supp. 2d at 218.

II. Conclusion

After careful examination of the record and the unopposed R & R, the court hereby **ADOPTS** the R & R in full. As a result, petitioner’s 2255 motion (ECF No. 12) is dismissed.

SO ORDERED.

At San Juan, Puerto Rico, on this 28th day of November, 2011.

S/AIDA M. DELGADO-COLÓN
Chief United States District Judge